

### **SUMMARY OF EXAMINER INTERVIEW**

Applicant would like to thank Examiners Avellino and Bruckhart for granting an in-person interview on 18 March 2009. During the interview, Applicant's representative discussed the proposed amendments and the differences between the invention of the pending claims and the prior art of record. Examiners Avellino and Bruckhart agreed to reconsider application of the prior of record to the amendments after a formal response is filed.

## **REMARKS**

The Office Action mailed 31 December 2008 has been received and reviewed. Reconsideration of the present application in view of the following remarks is respectfully requested.

### **Official Notice**<sup>1</sup>

Applicant hereby requests the Office to provide substantial evidence to support its factual findings and reasserts the challenges made against the Office's statements of "Official Notice" with respect to claims 2, 3, 9, and 10-13.

### **Rejections based on 35 U.S.C. § 103(a)**

#### **A) Applicable Authority**

Title 35 U.S.C. § 103(a) declares, a patent shall not issue when "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." The Supreme Court in *Graham v. John Deere* counseled that an obviousness determination is made by identifying: the scope and content of the prior art; the level of ordinary skill in the prior art; the differences between the claimed invention and prior art references; and secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966). To support a finding of obviousness, the initial burden is on the Office to apply the framework outlined in *Graham* and to provide some reason—suggestions or motivations—found either in the prior art references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the prior art reference or to combine prior

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<sup>1</sup> Applicant submits a continuing objection to the use of "Official Notice" for the reasons expressly noted in the response mailed 21 October 2008.

art reference teachings to produce the claimed invention. See *Application of Bergel*, 292 F.2d 955, 956-957 (CCPA 1961). Recently, the Supreme Court noted that the apparent reason to combine the elements in the fashion claimed by the [patent application] should be made explicit. *KSR v. Teleflex*, No. 04-1350, 550 U.S. 398 (2007).

B) Obviousness Rejections Based on U.S. Patent Publication No. 2003/0204856 (Buxton) in view of U.S. Patent Publication No. 2002/0129375 ("Kim"), and U.S. Patent Publication No. 2006/0156357 ("Lockridge").

Claims 1-16, 19-21, 23-31, 34-49, 52-54, 58-62, and 64-66 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buxton in view of Kim, and Lockridge. Applicant respectfully traverses this rejection because the prior art, including Buxton, Kim, and Lockridge fail to teach or suggest all elements of the inventions of amended independent claims 1 and 34.

Amended independent claim 1 recites a system for managing the transmission of distributable content. The system includes a collection engine and a content storage. The collection engine is configured to receive distributable content from at least one content provider based on a predetermined schedule and a usage demand for the distributable content via a first network and to process subscriber requests for the distributable content. The distributable content is configured to expire after a predetermined time and is transmitted to the collection engine from the at least one content provider after the collection engine receives a minimum number of subscriber requests for the distributable content. The content storage communicates with the collection engine to store the distributable content and to update the distributable content at specified intervals. In turn, the collection engine is configured to receive the subscriber requests over a second network to transmit the requested content over the second

network and to generate bills for transmission over the first network but not for transmission over the second network. The second network connects a subscriber group having a plurality of subscribers to a collection engine. The requested content is transmitted over the second network to viewing devices associated with the subscribers. The viewing devices are at least one of a computer, television, or a programmable video recording device.

Amended independent claim 1 requires, among other things, “wherein the distributable content is configured to expire after a predetermined time and is transmitted to the collection engine from the at least one content provider after the collection engine receives a minimum number of subscriber requests for the distributable content; and the collection engine is configured to receive the subscriber requests from viewing devices over a second network connecting a subscriber group having a plurality of subscribers, to transmit the requested content over the second network to one or more viewing devices, and to generate bills for transmission over the first network but not for transmission over the second network for each subscriber in the subscriber group, wherein the viewing devices comprises at least one of a computer, a television, and a programmable video recording device.” Applicant respectfully submits that the prior art, including Buxton, Kim, Nomura, and Lockridge, fails to teach or suggest each required element of amended independent claim 1.

The Office concedes that Buxton and Kim fail to expressly teach or suggest bills for transmission of the distributable transmission over a first network but not over a second network. The Office relies on Lockridge to remedy the deficiencies of Buxton and Kim. Lockridge, at paragraphs 22, 25, and 28, teaches a billing process where a client is charged a fee when the client does not have a subscription, and the client is not charged a fee when the client has a subscription. Contrary to the Office’s allegations, Buxton, Kim, and Lockridge do not

teach or suggest bills for transmission over a first network but not the second network. Accordingly, Lockridge fails to remedy the deficiency of Buxton and Kim.

Unlike Buxton, Kim, and Lockridge, alone and in combination, the invention of amended independent claim 1 requires, among other things, distributable content that is configured to expire after a predetermined time and that is transmitted to the collection engine from the at least one content provider after the collection engine receives a minimum number of subscriber requests for the distributable content. The collection engine is also configured to receive the subscriber requests over a second network to transmit the requested content over the second network and to generate bills for transmission over the first network but not for transmission over the second network. Applicant respectfully submits, Buxton, Kim, and Lockridge fail to teach or suggest the invention of amended independent claim 1. Accordingly, for at least the above reasons, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection and allowance of amended independent claim 1.

Dependent claims 2-16, 19-21, and 23-31 further define novel features of the invention of amended independent claim 1 and each depend, either directly or indirectly, from amended independent claim 1. Accordingly, for at least the reasons set forth above with respect to amended independent claim 1, dependent claims 2-16, 19-21, and 23-31 are believed to be in condition for allowance by virtue of their dependency. See 37 C.F.R. 1.75(c). As such, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection and allowance of dependent claims 2-16, 19-21, and 23-31.

Amended independent claim 34 recites a method for managing the transmission of distributable content. Requests from subscribers in a subscriber group are received and distributable content from at least one content provider is received via a first network based on

the subscriber requests. The distributable content comprises a subset of the distributable content corresponding to requests from subscribers in the subscriber group. The distributable content is received from the at least one content provider on a usage demand basis after a minimum number of different subscribers in the subscriber group requests the distributable content and an appropriate fee is applied by the content provider for each subscriber request. In turn, the distributable content are stored in content storage remote from a viewing device of each subscriber in the subscriber group. The distributable content is transmitted to the viewing device via a second network, wherein the distributable content is configured to expire after a predetermined time, from the content storage to the viewing device associated with a subscriber that requested to receive the distributable content at scheduled times on a pay-per-use basis.

Amended independent claim 34 requires, among other things, “the distributable content is received from the at least one content provider on a usage demand basis after a minimum number of different subscribers in the subscriber group request the distributable content and an appropriate fee is applied by the content provider for each request.” Applicant respectfully submits that the prior art, including Buxton, Kim, and Lockridge, fail to teach or suggest the required elements of amended independent claim 34.

Buxton, Kim, and Lockridge each describe video distribution systems. Buxton describes a server that streams movies to an end-user, Kim describes a central office storage that stores popular movie titles, and Lockridge describes a process that converts pay-per-view movies to video-on-demand movies. The prior art, including Buxton, Kim, and Lockridge, alone or in combination, fail to teach or suggest the distributable content is received from the at least one content provider on a usage demand basis after a minimum number of different subscribers in the subscriber group request the distributable content.

Unlike Buxton, Kim, and Lockridge, alone and in combination, amended independent claim 34 requires, among other things, distributable content is received from the at least one content provider on a usage demand basis after a minimum number of different subscribers in the subscriber group request the distributable content. Applicant respectfully submits, Buxton, Kim, and Lockridge fail to teach or suggest the invention of amended independent claim 34. Accordingly, for at least the above reason, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection and allowance of amended independent claim 34.

Dependent claims 35-49, 52-54, 56-62, and 64-65 further define novel features of the invention of amended independent claim 34 and each depend, either directly or indirectly, from amended independent claim 34. Accordingly, for at least the reasons set forth above with respect to amended independent claim 34, dependent claims 35-49, 52-54, 56-62, and 64-65 are believed to be in condition for allowance by virtue of their dependency. See 37 C.F.R. § 1.75(c). As such, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection and allowance of dependent claims 35-49, 52-54, 56-62, and 64-65.

C) Obviousness Rejections Based on U.S. Patent Publication No. 2003/0204856 (Buxton) in view of U.S. Patent Publication No. 2002/0129375 ("Kim"), U.S. Patent Publication No. 2006/0156357 ("Lockridge"), and U.S. Patent Publication No. 2004/0010717 ("Simec").

Claims 23, 24, 56, 57, 80-84, 87-89, 91, and 92 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buxton in view of Kim, Lockridge, and Simec. Applicant respectfully traverses this rejection because the prior art, including Buxton, Kim, Nomura, Lockridge, and Simec fail to teach or suggest all elements of the inventions of amended independent claims 1, 34, and 80.

Claims 23, 24, 56, and 57 depend from amended independent claims 1 and 34.

As discussed above, Buxton, Kim, Nomura, and Lockridge fail to teach or suggest all the elements of amended independent claims 1 and 34. Accordingly, claims 23, 24, 56, and 57 are patentable over Buxton, Kim, Nomura, and Lockridge for at least the above-cited reasons. The addition of Simec fails to cure the deficiencies of Buxton, Kim, Nomura, and Lockridge with respect to the elements of amended independent claims 1 and 34. As such, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection and allowance of dependent claims 23, 24, 56, and 57.

Amended independent claim 80 recites a computer readable medium, the computer readable medium being readable by a computer to execute a method of managing the transmission of distributable content. The computer receives subscriber requests from subscribers in a subscriber group and receives distributable content from at least one content provider via a first network based on the subscriber requests, where the distributable content comprises a subset of the distributable content corresponding to requests from subscribers in the subscriber group. The distributable content is received from the at least one content provider on a usage demand basis corresponding to a total number of fees applied for different subscribers in the subscriber group that request the distributable content. The distributable content is stored in content storage remote from a viewing device of each subscriber in the subscriber group. In turn, the computer transmits to the viewing device via a second network the distributable content, where the distributable content is configured to expire after a predetermined time, from the content storage to the viewing device of a subscriber that requested to receive the distributable content at scheduled times.



Amended independent claim 80 requires, among other things, “the distributable content is received from the at least one content provider on a usage demand basis corresponding to a total number of fees applied for different subscribers in the subscriber group that request the distributable content.” Applicant respectfully submits that the prior art, including Buxton, Kim, Lockridge, and Simec fail to teach or suggest the required elements of amended independent claim 80.

Buxton, Kim, Lockridge, and Simec each describe video distribution systems. Buxton describes a server that streams movies to an end-user, Kim describes a central office storage that stores popular movie titles, Lockridge describes a process that converts pay-per-view movies to video-on-demand movies, and Simec describes a content protection system for rendering multimedia content. The prior art, including Buxton, Kim, Lockridge, and Simec alone or in combination, fail to teach or suggest the distributable content is received from the at least one content provider on a usage demand basis corresponding to a total number of fees for the distributable content.

Unlike Buxton, Kim, Lockridge, and Simec, alone and in combination, amended independent claim 80 requires, among other things, the distributable content is received from the at least one content provider on a usage demand basis corresponding to a total number of fees applied for different subscribers in the subscriber group that request the distributable content. Applicant respectfully submits, Buxton, Kim, Lockridge, and Simec fail to teach or suggest the invention of amended independent claim 80. Accordingly, for at least the above reason, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection and allowance of amended independent claim 80.

Dependent claims 81-84, 87-89, and 91-92 further define novel features of the invention of amended independent claim 80 and each depend, either directly or indirectly, from amended independent claim 80. Accordingly, for at least the reasons set forth above with respect to amended independent claim 80, dependent claims 81-84, 87-89, and 91-92 are believed to be in condition for allowance by virtue of their dependency. See 37 C.F.R. 1.75(c). As such, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection and allowance of dependent claims 81-84, 87-89, and 91-92.

D) Obviousness Rejections Based on U.S. Patent Publication No. 2003/0204856 (Buxton) in view of U.S. Patent Publication No. 2002/0129375 ("Kim"), U.S. Patent Publication No. 2006/0156357 ("Lockridge"), U.S. Patent No. 7,254,622 ("Nomura"), and U.S. Patent Publication No. 2003/0005454 ("Rodriguez").

Claims 93-98, 100-102, 104-110, and 113-120 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buxton, Kim, Lockridge, Nomura, and Rodriguez. Applicant respectfully traverses this rejection because the prior art, including Buxton, Kim, Lockridge, Nomura, and Rodriguez, fail to teach or suggest all elements of the inventions of amended independent claims 93 and 107.

Amended independent claim 93 is a system for receiving a transmission of distributable content. The system includes a viewing device and a local storage. The viewing device having a graphical user interface that generates requests to receive distributable content, including videos, audio, and software, from a collection engine having a content storage device storing distributable content received from at least one content provider. The viewing device receives distributable content that is configured to expire after a predetermined number of uses. The local storage associated with the viewing device stores the distributable content. The

viewing device is configured to present a list of distributable content that is dynamically updated to include popular distributable content based on fees—as applied by the content provider—associated with the distributable content stored in the content storage.

Amended independent claim 93 requires, among other things, “a local storage associated with the viewing device to store the distributable content, the viewing device is configured to present a list of distributable content that is dynamically updated to include popular distributable content based on fees associated with the distributable content stored in the content storage as applied by the content provider.” Applicant respectfully submits that the prior art, including Buxton, Kim, Lockridge, Nomura, and Rodriguez fails to teach or suggest the required elements of independent claim 93.

Buxton, Kim, Lockridge, Nomura, and Rodriguez each describe video distribution systems. Buxton describes a server that streams movies to an end-user, Kim describes a central office storage that stores popular movie titles, Lockridge describes a process that converts pay-per-view movies to video-on-demand movies, Nomura describes a VOD system that processes user requests for content, and Rodriguez describes a user interface for purchasing multimedia content. The prior art, including Buxton, Kim, Lockridge, Nomura, and Rodriguez, alone or in combination, fail to teach or suggest a local storage associated with the viewing device to store the distributable content, the viewing device is configured to present a list of distributable content that is dynamically updated to include popular distributable content based on fees associated with the distributable content stored in the content storage.

Unlike Buxton, Kim, Lockridge, Nomura, and Rodriguez, the invention of amended independent claim 93 requires, among other things, a local storage associated with the viewing device to store the distributable content, the viewing device is configured to present a

list of distributable content that is dynamically updated to include popular distributable content based on fees associated with the distributable content stored in the content storage as applied by the content provider. Accordingly, for at least the above reason, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection of amended independent claim 93.

Dependent claims 94-98, 100-102, and 104-106 further define novel features of the invention of amended independent claims 93, and each depend, either directly or indirectly, from amended independent claim 93. Accordingly, for at least the reasons set forth above with respect to amended independent claim 93, dependent claims 94-98, 100-102, and 104-106 are believed to be in condition for allowance by virtue of their dependency. See 37 C.F.R. 1.75(c). As such, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection of dependent claims 94-98, 100-102, and 104-106.

Amended independent claim 107 is a method for managing the receipt of distributable content. A network is connected to communicate with content storage. The content storage storing distributable content received from at least one content provider, wherein the distributable content is configured to expire after a predetermined time. In turn, a user interface is presented to permit the subscriber to selectively receive the distributable content, wherein the user interface provides a list of distributable content that is dynamically updated to include popular distributable content based on fees associated with the popular distributable content stored on the content storage, as applied by the content provider.

Amended independent claim 107 requires, among other things, “presenting a user interface to permit a subscriber to selectively receive the distributable content, wherein the user interface provides a list of distributable content that is dynamically updated to include popular distributable content based on fees associated with the popular distributable content stored on the

content storage as applied by the content provider.” Applicant respectfully submits that the prior art, including Buxton, Kim, Lockridge, Nomura, and Rodriguez, fails to teach or suggest all required elements of amended independent claim 107.

Buxton, Kim, Lockridge, Nomura, and Rodriguez each describe video distribution systems. Buxton describes a server that streams movies to an end-user, Kim describes a central office storage that stores popular movie titles, Lockridge describes a process that converts pay-per-view movies to video-on-demand movies, Nomura describes VOD systems that process content, and Rodriguez describes a user interface for purchasing multimedia content. The prior art, including Buxton, Kim, Lockridge, Nomura, and Rodriguez, alone or in combination, fail to teach or suggest presenting a user interface to permit a subscriber to selectively receive the distributable content, wherein the user interface provides a list of distributable content that is dynamically updated to include popular distributable content based on fees associated with the popular distributable content stored on the content storage.

Unlike Buxton, Kim, Lockridge, Nomura, and Rodriguez, the invention of amended independent claim 107 requires, among other things, presenting a user interface to permit a subscriber to selectively receive the distributable content, wherein the user interface provides a list of distributable content that is dynamically updated to include popular distributable content based on fees associated with the popular distributable content stored on the content storage as applied by the content provider. Buxton, Kim, Lockridge, Nomura, and Rodriguez, alone and in combination, fail to teach or suggest the elements of amended independent claim 107. Accordingly, for at least the above reason, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection of amended independent claim 107.

Dependent claims 108-110 and 113-120 define novel features of the invention of amended independent claim 107, and each depend, either directly or indirectly, from independent claim 107. Accordingly, for at least the reasons set forth above with respect to independent claim 107, dependent claims 108-110 and 113-120 are believed to be in condition for allowance by virtue of their dependency. See 37 C.F.R. § 1.75(c). As such, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection of dependent claims 108-110 and 113-120.

E) Obviousness Rejections Based on U.S. Patent Publication No. 2003/0204856 (Buxton) in view of U.S. Patent Publication No. 2002/0129375 ("Kim"), U.S. Patent Publication No. 2006/0156357 ("Lockridge"), U.S. Patent Publication No. 2003/0005454 ("Rodriguez"), U.S. Patent Publication No. 2004/0010717 ("Simec"), and U.S. Patent No. 7,254,622 ("Nomura").

Claims 135, 136, 144, and 146-148 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Buxton, Kim, Lockridge, Rodriguez, Nomura, and Simec. Applicant respectfully traverses this rejection because the prior art, including Buxton, Kim, Lockridge, Rodriguez, Nomura, and Simec fail to teach or suggest all elements of the invention of amended independent claim 135.

Amended independent claim 135 recites a computer-readable medium, the computer-readable medium being readable by a computer to execute a method for managing the receipt of distributable content. Communicating with remote content storage over a connected network, the content storage storing distributable content received from at least one content provider for transmission to a subscriber within a subscriber group, wherein the distributable content is configured to expire after a predetermined number of uses. A user interface is presented to permit the subscriber to selectively receive the distributable content, wherein the

user interface provides a list of distributable content that is dynamically updated to include popular distributable content based on fees generated by the content provider of the popular distributable content, presents selectable options to permit the subscriber to choose to receive the popular distributable content at selected times on a pay-per-uses basis, presents selectable options to permit the subscriber to choose to receive the popular distributable content as a background task, and presents a security dialog to receive a key to authorize the subscriber to view the popular distributable content. In turn, an output is generated having popular distributable content to view on a viewing device having a local storage to store the distributable content, wherein reproduction of the popular distributable content stored in local storage is controlled by a digital rights module.

Amended independent claim 135 requires, among other things, “presenting a user interface to permit the subscriber to selectively receive the distributable content, wherein the user interface provides a list of distributable content that is dynamically updated to include popular distributable content based on fees generated by the content provider of the popular distributable content, presents selectable options to permit the subscriber to choose to receive the popular distributable content at selected times on a pay-per-uses basis, presents selectable options to permit the subscriber to choose to receive the popular distributable content as a background task, and presents a security dialog to receive a key to authorize the subscriber to view the popular distributable content.” Applicant respectfully submits that the prior art, including Buxton, Kim, Lockridge, Rodriguez, Nomura, and Simec fail to teach or suggest all required elements of amended independent claim 135.

Buxton, Kim, Lockridge, Rodriguez, Nomura, and Simec each describe video distribution systems. Buxton describes a server that streams movies to an end-user, Kim

describes a central office storage that stores popular movie titles, Lockridge describes a process that converts pay-per-view movies to video-on-demand movies, Rodriguez describes a user interface for purchasing multimedia content, Nomura describes an online movie rental system, and Simec describes a content protection system for rendering multimedia content. The prior art, including Buxton, Kim, Lockridge, Rodriguez, Nomura, and Simec, alone or in combination, fail to teach or suggest presenting a user interface to permit the subscriber to selectively receive the distributable content, wherein the user interface provides a list of distributable content that is dynamically updated to include popular distributable content based on fees generated by the content provider of the popular distributable content.

Unlike Buxton, Kim, Lockridge, Rodriguez, Nomura, and Simec the invention of amended independent claim 135 requires, among other things, presenting a user interface to permit the subscriber to selectively receive the distributable content, wherein the user interface provides a list of distributable content that is dynamically updated to include popular distributable content based on fees generated by the content provider of the popular distributable content. Buxton, Kim, Lockridge, Rodriguez, Nomura, and Simec alone and in combination, fail to teach or suggest the elements of amended independent claim 135. Accordingly, for at least the above reason, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection of amended independent claim 135.

Dependent claims 144 and 146-148 define novel features of the invention of amended independent claim 135, and each depend, either directly or indirectly, from amended independent claim 135. Accordingly, for at least the reasons set forth above with respect to amended independent claim 135, dependent claims 144 and 146-148 are believed to be in condition for allowance by virtue of their dependency. See 37 C.F.R. 1.75(c). As such,



Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection of dependent claims 144 and 146-148.

### CONCLUSION

For at least the reasons stated above, the pending claims are now in condition for allowance. Applicant respectfully requests withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned to resolve the same.

Respectfully submitted,

/MONPLAISIR HAMILTON/

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